

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

KLEEN PRODUCTS LLC, *et al.*, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

INTERNATIONAL PAPER CO., *et al.*,

Defendants.

No. 1:10-cv-05711

Hon. Harry D. Leinenweber

**DEFENDANTS' MOTION TO STRIKE
THE REPLY EXPERT REPORT OF DR. DOUGLAS ZONA AND
NEW ANALYSES IN THE REPLY EXPERT REPORT OF DR. MARK DWYER**

Pursuant to Rules 26(a) and 37(c)(1) of the Federal Rules of Civil Procedure, Defendants Georgia-Pacific LLC, Temple-Inland Inc., International Paper Company, RockTenn CP, LLC, and Weyerhaeuser Company ("Defendants") respectfully move this Court to strike the Declaration of Dr. J. Douglas Zona [Dkt. 826-4] in its entirety and (as further detailed in Defendants' accompanying Memorandum of Law) the new analyses set forth in the Reply Report of Dr. Mark Dwyer [Dkt. 826-3] submitted with Plaintiffs' Reply [Dkt. No. 826] in support of their Motion for Class Certification, on two primary grounds:

1. Plaintiffs' submission of admittedly new analyses and analytical models offered by Zona and Dwyer in their respective "reply" reports exceeds the scope of proper "rebuttal" and violates the expert disclosure provisions set forth in the Court's Third Amended Scheduling Order [Dkt. No. 733] ("SO") and Rule 26(a). Zona is a brand new expert, who purports to offer analytical models intended to show impact and damages to the putative class—the same thing that Dwyer attempts to do—despite never being disclosed by Plaintiffs as a class certification expert in accordance with the SO. Zona's empirical work is based on the same data that was made available to Dwyer for his own modeling. For these reasons, Zona's "reply" report should be stricken in its entirety.

2. Allowing Plaintiffs to submit these new expert analyses on reply would effectively require a restart of the class certification process—entailing additional depositions, sur-replies from Defendants and their experts, and a corresponding delay in the scheduled merits proceedings. This would impose significant and unnecessary cost, burden, and delay in deciding

Plaintiffs' motion for class certification and bringing this case to resolution.

In support of this Motion, and incorporated by reference herein, Defendants submit their accompanying Memorandum of Law and Exhibit A thereto.

WHEREFORE, Defendants respectfully request that this Court grant their Motion and accordingly strike Zona's "reply" report in its entirety and the new analyses set forth in Dwyer's "reply" report as identified in Defendants' accompanying Memorandum of Law.

Dated: January 27, 2015

Respectfully submitted,

/s/ Ryan A. Shores
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Attorneys for Defendant GEORGIA-PACIFIC LLC,
and for purposes of this Motion only, on behalf of
TEMPLE-INLAND INC., INTERNATIONAL PAPER
COMPANY, ROCKTENN CP, LLC, *and*
WEYERHAEUSER COMPANY

CERTIFICATE OF SERVICE

I, Ryan A. Shores, an attorney, hereby certify that on January 27, 2015, I caused a true and correct copy of the foregoing **DEFENDANTS' MOTION TO STRIKE THE REPLY EXPERT REPORT OF DR. DOUGLAS ZONA AND NEW ANALYSES IN THE REPLY EXPERT REPORT OF DR. MARK DWYER**, to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

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